

Amendment No. 1 to SB2806

Bell
Signature of Sponsor

AMEND Senate Bill No. 2806

House Bill No. 2663*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 16, is amended by adding the following as a new chapter:

16-19-101. Short title.

This chapter is known and may be cited as the "Mental Health Treatment Act of 2022."

16-19-102. Legislative intent.

(a) It is the intent of the general assembly through this chapter to create programs to facilitate the implementation of new, and the continuation of existing, mental health treatment court programs in all counties within this state.

(b) The goals of the mental health treatment court programs created under this chapter include the following:

(1) To reduce the use of jail and prison beds and other correctional services by offenders with mental health disorders by diverting them into treatment programs;

(2) To improve court efficiency by substituting a problem-solving model for traditional criminal court processing and linking defendants to effective treatment and supports for mental illness;

(3) To improve the quality of life of people with severe and persistent mental illnesses and increase their participation in effective treatment;

(4) To promote the public safety by reducing the incidence of crimes committed as a result of mental health disorders; and

(5) To promote effective interaction and the use of resources among local criminal justice agencies and community agencies.

16-19-103. Definitions.

As used in this chapter:

(1) "Nonadversarial approach" means that the district attorney general and the defense attorney work together for the benefit of the mental health treatment program participants and the mental health treatment court program;

(2) "Severe and persistent mental illness" means a diagnosis of one (1) or more qualifying mental illnesses or disorders, which shall be determined by the department of mental health and substance abuse services;

(3) "Sexual offender" means any person who has been convicted of or charged with a sexual offense or violent sexual offense as those terms are defined in § 40-39-202; and

(4) "Violent offender" means a person who has been convicted of or charged with an offense, during the course of which there occurred the death of or serious bodily injury to any person.

16-19-104. No right of treatment conferred. – Operation.

(a) This chapter creates mental health treatment court programs within the state that follows the general principles referenced in § 16-19-107 and that is approved by the department of mental health and substance abuse and established by the judge of a court in this state exercising criminal jurisdiction.

(b) This chapter does not confer a right or an expectation of a right to treatment for an offender within the criminal justice system.

(c) A recovery court program, including but not limited to, a veterans treatment court program or a drug court treatment program, shall operate separate and apart from a mental health treatment court program.

16-19-105. Administration by the department of mental health and substance abuse services.

(a) The department of mental health and substance abuse services shall administer mental health treatment court programs by:

(1) Defining, developing, and gathering outcome measures for mental health treatment court programs relating to the purposes and goals in § 16-19-102;

(2) Collecting, reporting, and disseminating mental health treatment court program data;

(3) Supporting a state mental health treatment mentor program;

(4) Sponsoring and coordinating mental health treatment court program training;

(5) Administering and evaluating mental health treatment court programs; and

(6) Developing standards of operation for mental health treatment court programs to ensure that funds are allocated to meet the greatest need.

(b) In accomplishing the tasks listed in subsection (a), the department shall consult and collaborate with the Tennessee district attorney general's conference and the public defenders conference.

16-19-106. Funding.

(a) A court exercising criminal jurisdiction within this state or an existing drug court treatment program or a veterans treatment court program created by a court exercising criminal jurisdiction may apply for mental health treatment court program grant funds. If the department of mental health and substance abuse services

determines that the court is able to administer a mental health treatment court program, then the department shall award the court grant money to fund a mental health treatment court program.

(b) If the department determines that a court is able to administer a mental health treatment court program and grant money is awarded pursuant to subsection (a), then the county in which the court resides shall provide a courtroom and a judge for the mental health treatment court program and all necessary supplies and equipment for the maintenance of the court, and shall defray the expenses thereof from the general fund of the county.

(c) Funds allocated pursuant to this section may be used to:

- (1) Fund a full-time or part-time program director position;
- (2) Fund treatment court program staff whose job duties are directly related to program operations;
- (3) Fund mental health treatment and other direct services for court program participants; and
- (4) Fund program costs directly related to program operations.

(d) Funds allocated pursuant to this section shall not be used:

- (1) To pay for costs not directly related to mental health treatment court program operations;
- (2) To pay for additional judges to preside over a mental health treatment court program;
- (3) For construction or land acquisition;
- (4) To pay bonuses or commissions to any individuals or organizations;

or

- (5) To form a corporation.

16-19-107. Guiding principles.

All mental health treatment court programs in this state must be established and operate according to the following principles:

(1) The community and a broad-based group of stakeholders representing the criminal justice system, mental health, substance abuse treatment, and related systems guide the planning and administration of the mental health treatment court programs;

(2) Eligibility criteria are established to:

(A) Address public safety and consider a community's treatment capacity, in addition to the availability of alternatives to pretrial detention for defendants with severe and persistent mental illnesses; and

(B) Take into account the relationship between mental illness and a defendant's offenses, while allowing the individual circumstances of each case to be considered;

(3) Participants are identified, referred, and accepted into mental health treatment court programs, and then linked to community-based service providers as quickly as possible;

(4) Terms of participation are clear, promote public safety, facilitate the defendant's engagement in treatment, are individualized to correspond to the level of risk that the defendant presents to the community, and provide for positive legal outcomes for those individuals who successfully complete the program;

(5) Defendants fully understand the program requirements before agreeing to participate in a mental health treatment court program. Defendants are provided legal counsel to inform their decision concerning participation and subsequent decisions about program involvement. Mental health treatment court programs must use a nonadversarial approach. Disagreements between a district attorney general and defense attorney are resolved prior to court and not

in the presence of the participants. Procedures exist in the mental health treatment court to address, in a timely fashion, concerns about a defendant's competency if those concerns arise;

(6) Mental health treatment court programs:

(A) Connect participants to comprehensive and individualized treatment supports and services in the community; and

(B) Strive to use, and increase the availability of, evidence-based treatment and services;

(7) Health and legal information is shared in a way that protects potential participants' confidentiality rights as mental health consumers and their constitutional rights as defendants. Information gathered as part of the participants' court-ordered treatment program or services is safeguarded in the event that participants are returned to traditional court processing;

(8) A team of criminal justice and mental health staff and service and treatment providers receive special, ongoing training and help mental health treatment court participants achieve treatment and criminal justice goals by regularly reviewing and revising the court process;

(9) Criminal justice and mental health staff collaboratively monitor participants' adherence to court conditions, offer individualized graduated incentives and sanctions, and modify treatment as necessary to promote public safety and participants' recovery; and

(10) Data is collected and analyzed to demonstrate the impact of the mental health treatment court program, the mental health treatment court program's performance is assessed periodically, the mental health treatment court program's procedures are modified based on the results of the periodic performance assessments, the mental health treatment court program's

processes are institutionalized, and support for the mental health treatment court program in the community is cultivated and expanded.

16-19-108. Mental health treatment court program participants. Each participant in a mental health treatment court program:

- (1) Shall not be a violent offender or sexual offender;
- (2) Must have a diagnosis of a severe and persistent mental illness; and
- (3) Must be willing to participate in the program.

SECTION 2. The headings to sections, parts, and chapters in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.